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ABSTRACT

Prepared in 1986 for the Wisconsin Legislative Council's Special Committee on Employment Disincentives, this staff brief describes employment patterns which affect participation in the work force by persons with children. Part I summarizes the participation of persons with children in the work force, primarily women who are heads of households and women who are part of two-income families. Part II, which concerns parental leave, describes state and federal laws and proposed legislation, and provides other relevant information. Parts III and IV further describe state and federal laws and provide other relevant information regarding, respectively, alternative work schedules, and the provision of health care to low-income persons. Appendices provide: (1) a summary of parental leave policies for state employees, by state; (2) Wisconsin law on part-time and flextime work schedules; (3) Wisconsin administrative rules on part-time and flextime work schedules; (4) a comparison between the Federal and Wisconsin laws on continuation of health insurance coverage; and (5) Wisconsin law on the state's health insurance plan. (RH)

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EMPLOYMENT PATTERNS AFFECTING PARENTS

STAFF BRIEF 86-17

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Wisconsin Legislative Council Staff — Madison, Wisconsin

Special Committee on Employment Disincentives — September 8, 1986

STAFF BRIEF 86-17*

EMPLOYMENT PATTERNS AFFECTING PARENTS

INTRODUCTION

This Staff Brief was prepared for the Legislative Council's Special Committee on Employment Disincentives. The Committee was established by the Legislative Council, pursuant to a July 11, 1986 letter from Speaker Tom Loftus.

The Special Committee was directed to study disincentives that keep persons with children from obtaining employment and achieving economic self-sufficiency, including an examination of: the impact of the loss of Aid to Families with Dependent Children benefits and other public assistance benefits; a lack of affordable child care and full-day and four-year old kindergarten; and employment patterns which negatively affect participation in the work force by persons with children.

This Staff Brief describes employment patterns which affect participation in the work force by persons with children and is organized as follows:

Part I summarizes the participation of persons with children in the work force, primarily women who are heads of households and women who are part of two-income families.

Part II describes federal and state laws and proposed legislation and provides other relevant information regarding parental leave.

Part III describes state and federal laws and provides other relevant information regarding alternative work schedules.

Part IV describes state and federal laws and provides other relevant information regarding the provision of health care to low-income persons.

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*This Staff Brief was prepared by Richard Sweet, Senior Staff Attorney, Legislative Council Staff.

PART I

PARENTS IN THE WORK FORCE

In recent decades, women with children have been entering the work force in increasingly larger numbers. This is true of both women who head households and women who are part of two-earner couples. This increase in the number of women with children in the work force has led to discussions of a variety of issues affecting parents in the work force, such as the availability of affordable child day care, parental leave, alternative work schedules and health care coverage. [The issue of child day care, a major issue for parents in the work force, will be dealt with in a separate paper prepared for the Special Committee on Employment Disincentives, Staff Brief 86-16, Child Care and Early Education Programs.]

Table 1 shows the work force participation rates of wives with a husband present, by the age of the youngest child of the couple, at five-year intervals from 1970 to 1985. [Work force participation includes persons who are working or who are unemployed and seeking work.]

TABLE 1

WORK FORCE PARTICIPATION RATES OF WIVES WITH HUSBANDS PRESENT, BY AGE OF YOUNGEST CHILD, 1970-1985*

PRESENCE AND AGE OF YOUNGEST CHILD	1970	1975	1980	1985
Wives, total	40.8%	44.5%	50.2%	54.3%
No children under 18 years	42.2%	44.0%	46.0%	48.2%
With children under 18 years	39.8%	44.9%	54.3%	61.0%
Under 3 years	25.8%	32.6%	41.5%	50.7%
3 to 5 years	36.9%	42.2%	51.7%	58.6%
6 to 13 years	47.0%	51.8%	62.6%	68.1%
14 to 17 years	54.8%	53.8%	60.5%	67.0%

*Information is provided, at five-year intervals, for the month of March for each year shown.

SOURCE: Hayghe, Howard, U.S. Bureau of Labor Statistics, "Rise in Mothers' Labor Force Activity Includes Those With Infants," Monthly Labor Review (February 1986).

As can be seen from Table 1, a majority of wives with husbands present are currently in the work force. In 1985, the participation rate was 54.3%, up from 40.8% in 1970. However, the most dramatic increases are for those wives with minor children in the household. The participation rate of those persons was 61.0% in 1985, up from only 39.8% in 1970. The participation rate also increases with the age of the youngest child in the household, with a leveling off after the child reaches teenage years. In 1985, while those wives with children under three years of age had the lowest participation rate, their participation rate also increased the most dramatically from 1970 to 1985. In 1970, only about 1/4th of wives with children under three years of age were in the work force, whereas this had increased to slightly over 1/2 in 1985.

Table 2 shows the actual number of wives with husbands present and women heads of households for March 1985, by race. Also shown are percentage figures by race. As can be seen from Table 2, while only 6.9% of wives with husbands present are black, 28.8% of women heads of households are black.

TABLE 2

NUMBER AND PERCENT OF WIVES WITH HUSBANDS PRESENT AND BY WOMEN HEADS OF HOUSEHOLDS, BY RACE, MARCH 1985

RACE	WIVES WITH HUSBANDS PRESENT		WOMEN HEADS OF HOUSEHOLDS	
	NUMBER	PERCENT	NUMBER	PERCENT
White	45,568,000	90.6%	7,257,000	69.0%
Black	3,487,000	6.9%	3,029,000	28.8%
Other	1,240,000	2.5%	238,000	2.2%
TOTAL	50,395,000	100.0%	10,524,000	100.0%

SOURCE: Hayghe, Howard, U.S. Bureau of Labor Statistics, "Rise in Mothers' Labor Force Activity Includes Those with Infants," Monthly Labor Review (February 1986).

Table 3 breaks down the March 1985 data on work force participation for both wives with husbands present and women who were heads of households, by the age of the youngest child and also by the race of the woman.

TABLE 3

WORK FORCE PARTICIPATION BY WIVES WITH HUSBANDS PRESENT AND BY WOMEN HEADS OF HOUSEHOLDS, BY AGE OF YOUNGEST CHILD AND RACE, MARCH 1985

PRESENCE AND AGE OF YOUNGEST CHILD	WIVES WITH HUSBANDS PRESENT			WOMEN HEADS OF HOUSEHOLDS		
	TOTAL	WHITE	BLACK	TOTAL	WHITE	BLACK
Total	54.3%	53.4%	64.2%	61.0%	63.0%	58.3%
No children under 18 years	48.2%	47.5%	56.1%	50.7%	51.9%	46.6%
With children under 18 years	61.0%	60.0%	71.5%	67.8%	71.2%	61.2%
Under 3 years	50.7%	49.8%	65.7%	44.5%	45.7%	43.5%
3 to 5 years	58.6%	58.6%	73.8%	61.2%	64.6%	56.0%
6 to 13 years	68.1%	67.7%	73.5%	75.7%	78.1%	70.9%
14 to 17 years	67.0%	66.3%	74.1%	78.5%	82.1%	68.4%

SOURCE: Hayghe, Howard, U.S. Bureau of Labor Statistics, "Rise in Mothers' Labor Force Activity Includes Those with Infants," Monthly Labor Review (February 1986). Actual numbers not available.

As can be seen from Table 3, black wives with husbands present have a higher participation rate in the work force than do white wives with husbands present. This is true regardless of whether there are children and, if there are children, for all age groups of the youngest child. For those without children under 18 years, the participation rates are 56.1% for blacks and 47.5% for whites; for those with children under 18 years, the rates are 71.5% for blacks and 60.0% for whites.

The biggest difference between work force participation rates for black and white wives with husbands present occurs where there is a young child in the household. For all wives with husbands present who have children under three years, 50.7% participate in the work force. However,

this participation is 49.8% for whites and 65.7% for blacks. In the next age group (where the youngest child is three to five years), the participation rate is 56.6% for whites and 73.8% for blacks.

While black wives with husbands present have a higher work force participation rate than do white wives with husbands present, the opposite is true for white and black women who head households. For example, the biggest difference occurs where the woman head of household's youngest child is 14 to 17 years -- 68.4% for blacks and 82.1% for whites.

PART II

PARENTAL LEAVE

In this Part of the Staff Brief, the term "parental leave" generally refers to both maternity leave and paternity leave; however, the latter terms will also be used, where necessary, because they are typically treated differently by employers. Parental leave can take a variety of forms, including: (a) the right to use vacation, compensatory time or sick leave; (b) the right to a paid parental leave for a specified period; and (c) the right to an unpaid parental leave for a specified period. Other issues of interest to persons taking a parental leave are the right to reinstatement to the same job or an equivalent job, preservation of seniority rights and continuation of employe benefits, such as health insurance, during the leave.

A. FEDERAL LAW AND PROPOSED LEGISLATION

1. Pregnancy Discrimination Act of 1978

The Pregnancy Discrimination Act of 1978 (hereinafter "the PDA") amended Title VII of the Civil Rights Act of 1964 [42 U.S.C. s. 2000e, et seq.] to include pregnancy-based discrimination under Title VII's prohibition against sex discrimination, by the addition of the following provision to Title VII:

> The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefits programs, as other persons not so affected but similar in their ability or inability to work...[42 U.S.C s. 2000e (k)].

Title VII, including the PDA amendments, applies to employers with 15 or more employes for each working day in each of 20 or more weeks in the current or preceding calendar year.

A recent law review article, reviewing the PDA and maternity leave policies in the United States and Great Britain, discusses the applicability of the PDA to employers. That article states as follows:

> While the PDA confirms that pregnant women are entitled to the same disability benefits as men, the legislative history clearly indicates that employers who do not provide temporary disability benefits would not have to begin providing them to pregnant women. The House Report emphasizes that the PDA does not require employers to treat pregnant employees in any particular manner with regard to hiring, work during pregnancy, sick leave, medical and hospital benefits, disability benefits or any other matter. The PDA only requires employers to treat pregnancy and childbirth like other disabilities under a pre-existing employee benefit plan such as a health insurance plan or sick leave policy. The PDA prohibits mandatory leaves based on pregnancy, protects reinstatement rights of women on maternity leave, including credit for previous service, accrued retirement benefits, and accumulated seniority. It also prohibits termination of a woman's employment or refusal to hire or promote a woman because of her pregnancy. Pregnancy is treated as temporary disability. [Emphasis added.] 1/*

It appears that because pregnancy is treated as are other temporary disabilities under the PDA, if an employer does not offer disability leave for other disabilities, it need not do so for pregnancy.

Title VII of the Civil Rights Act was recently used as the basis for litigation challenging a California law that requires employers to grant maternity leave of up to four months to their employes. The U.S. Supreme Court has agreed to hear the case in its next term that begins in October 1986 [California Federal Savings and Loan Association v. Guerra, 758 F. 2d 390 (9th Cir. 1985), cert. granted, 106 S. Ct. 783]. The California law states that it is an unlawful employment practice to refuse to allow a female employe to take a leave on account of pregnancy for a reasonable period of time, provided that the period of time does not exceed four months. The law further states that the employe is entitled to use any accrued vacation leave during that period of time.

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* All footnotes are found at the end of the Staff Brief, beginning on page 35.

In the Guerra case, Lillian Garland took a four month pregnancy disability leave from California Federal Savings and Loan Association. Following the leave, the employer denied her request for reinstatement to the same job or a similar job. California's Department of Fair Employment and Housing served the employer with a complaint; the employer then filed suit in Federal District Court seeking declaratory and injunctive relief against the enforcement of the California law, on the basis of preemption by Federal Title VII. The Federal District Court granted the employer's motion for a summary judgment and concluded that the California law discriminated against male employes. The state appealed and the U.S. Court of Appeals for the 9th Circuit began its decision by stating as follows:

> We hold that the district court's conclusion that section 12945 (b) (2) discriminates against men on the basis of pregnancy defies common sense, misinterprets case law, and flouts Title VII and the PDA [Guerra, at 393].

The Court of Appeals stated that the question presented by the case was whether Title VII's prohibition of discrimination in employment on the basis of sex, as clarified by the definitional amendments of the PDA, preempts the California disability leave law. The Court noted that prior to the enactment of the PDA, the U.S. Supreme Court, against Title VII and equal protection challenges, consistently upheld employer plans that excluded pregnancy from disability coverage. The Court stated that Congress enacted the PDA specifically to change the result of those cases and the reasoning in those cases that purposeful exclusion of pregnancy disability benefits did not amount to sex discrimination. The Court stated as follows:

> By making "pregnancy" a substitute for "sex" in Title VII's antidiscrimination mandate, Congress procured for pregnancy that which it had already procured for sex: a guarantee against discrimination of all varieties, including facially-neutral policies with a disparate impact [Guerra, at 396].

The Court of Appeals went on to hold that Title VII does not preempt a state law that guarantees pregnant women a certain number of pregnancy disability leave days and remanded the case to the District Court with instructions that the District Court grant summary judgment to the state, thereby upholding the California law. As indicated earlier, the U.S. Supreme Court has agreed to hear the Guerra case in the term which begins in October 1986.

2. Proposed Parental Leave Legislation

Representative Patricia Schroeder recently introduced H.R. 4300, which would be entitled the "Parental and Medical Leave Act of 1986," in the U.S. House of Representatives. That proposed legislation was recommended for passage by the House Committee on Post Office and Civil Service, with no amendments. The House Committee on Education and Labor then adopted a substitute amendment introduced by Labor Relations Subcommittee Chairperson William Clay and favorably reported H.R. 4300 as amended.

The proposed legislation, as set forth in the substitute amendment, would cover employers with 15 or more employes. The proposed legislation covers those employes who have been employed for 500 hours or three consecutive months, whichever occurs earlier. The proposed legislation would require employers to offer to male and female employes up to 18 weeks unpaid parental leave over a 24-month period upon the birth or adoption of a child or upon the serious health condition of a dependent child or parent. The leave may be taken on a reduced hour basis, not to exceed 36 work weeks, and scheduled so as not to unduly disrupt the employer's operations. Either the employer or employe may substitute other paid leave for part of the unpaid leave. If the need for the leave is foreseeable, the employe must provide reasonable notice to the employer.

In addition to the parental leave, the proposed legislation would require employers to provide up to 26 weeks over a 12-month period for an employe who is unable to perform his or her job due to a serious health condition. However, the proposed legislation provides that an employer may limit an employe's combined parental and medical leave to 36 weeks over a one-year period.

The proposed legislation provides that the employe is to be restored to his or her previous position or an equivalent position upon returning to work. The employer would be required to continue health insurance coverage during the leave on the same basis as prior to the leave. 2/

B. STATE LAW

1. Fair Employment Law

Wisconsin's fair employment law prohibits employment discrimination on a number of bases, including discrimination based on sex [ss. 111.31 to 111.395, Stats.]. Under that law, it is an act of employment discrimination:

> To refuse to hire, employ, admit or license any individual, to bar or terminate from employment or labor organization membership any individual, or to discriminate against any individual in promotion, compensation or in terms, conditions or privileges of employment or labor organization membership because of any basis enumerated in s. 111.321 [which includes sex] [s. 111.322 (1), Stats.].

The prohibition against discrimination on the basis of sex is further explained in s. 111.36, Stats., which, in part, prohibits:

> Discriminating against any woman on the basis of pregnancy, childbirth, maternity or related medical conditions by engaging in any of the actions prohibited under s. 111.322, including, but not limited to, actions concerning fringe benefit programs covering illnesses and disability [s. 111.36 (1) (c), Stats.].

The above provisions of the fair employment law apply to all employers, which includes the state and each agency of the state, and any other person engaging in any activity, enterprise or business employing at least one individual. However, social clubs and fraternal societies are not covered by the law with respect to particular jobs for which the club or society seeks to employ or employs a member, if the particular job is advertised only within the membership [s. 111.32 (6), Stats.].

2. State Employe Parental Leave

State administrative rules spell out parental leave policies for state employes. Agencies are required to allow maternity leaves without pay for a period of time, not to exceed six months, requested by a woman employe. Agencies may extend this leave time for up to six additional months. Also, agencies may grant paternity leaves without pay for up to six months [s. ER-Pers 18.05 (1) (d) and (e), Wis. Adm. Code].

Full-time state employes receive 13 days of sick leave per year (four hours per biweekly period). Sick leave may be used for maternity purposes, but the rules do not spell out how many sick leave days may be used. Under the Wisconsin Personnel Manual--Administration, Classification and Compensation, Department of Employment Relations (DER), sick leave may be used only for the period of time necessary for the woman's recovery, as verified by a physician. Also, the rules state that sick leave may be used for "temporary emergency care of immediate family members" for up to five days for any one injury or illness (or

longer with approval of the employe's agency to cover "unusual circumstances") [s. ER-Pers 18.03 (2) (a) and (4) (a), Wis. Adm. Code].

C. OTHER INFORMATION

In 1984, Catalyst (an organization that describes itself as a "...national information resource...that helps companies develop the career and leadership capabilities of women") conducted a survey of 1,462 of the nation's 1,500 largest employers (by level of annual sales). 3/ A total of 384 companies responded to the survey. Of the respondents, 35.1% had fewer than 2,500 employes, 31.7% had between 2,500 and 9,500 employes and 33.2% had more than 9,500 employes.

The Catalyst survey showed that 95% of survey respondents granted short-term disability leaves of varying lengths to employes. The survey also showed that the most common disability leave for pregnancy is five to eight weeks, with 63.0% of the employers offering that length of leave. The survey showed that 57.3% of employers offering disability leave did so on a partially-paid basis, 38.9% did so on a fully-paid basis and 3.8% did so on an unpaid basis.

The Catalyst survey showed that unpaid leave for women was offered by 51.8% of employers and that unpaid leave for men was offered by 37.0% of employers. This latter practice is not usually called paternity or parental leave by the employer, but is instead covered under the employer's general leave of absence policy. However, Catalyst stated that despite the fact that companies are increasingly offering these leaves to new fathers, only nine companies reported that men took advantage of the leave policy.

Bernard Hodes Advertising, a New York City firm, sent a questionnaire to the more than 8,500 subscribers to the firm's bimonthly human resources newsletter in 1985. The Hodes survey showed that nearly 1/4th of the 153 companies responding allowed employes to use any accrued vacation, sick leave or personal leave as maternity leave. Also, 75% of the responding companies offered a return to work guarantee for women on maternity leave, with this usually being conditioned on employes not being off the job longer than four months. The survey showed that most of the responding companies maintain some benefits during maternity leave, with 40% continuing all benefits. The Hodes survey also concluded that companies with 500 or more employes were noticeably more likely to offer full-salary leave than were smaller companies. 4/

A 1980 Columbia University study showed that 88.0% of the employers surveyed provided maternity leaves, but only 73.0% stated that they assured the employes seniority protection and formally guaranteed employes

the same job or a comparable job on their return from maternity leave. [About 20% of the 1,000 employers surveyed responded to the questionnaire.] The study found that retail and service industries were the least likely to provide leaves or, if they did permit leaves, the least likely to guarantee a job upon return. The study also showed that banks and insurance companies provided the "most generous leaves." 5/

A 1985 report by the Congressional Research Service reported on maternity leave benefits in other countries. It stated that of the 135 countries with maternity leave benefit programs, 125 mandate that cash benefits must be paid during maternity leave. It also noted that all European countries mandate paid maternity leave. 6/

Finally, a recent article by the Council of State Governments reported on its findings from a survey of state personnel offices in all 50 states to determine parental leave policies for state government employes. A table showing leave policies in the 50 states and Puerto Rico is set forth in Appendix A to this Staff Brief. The article indicates that a mother may take leave for the birth or adoption of a child in 42 states, but that many of the laws and regulations permit unspecified "maternity leave" or require that the mother use accrued leave, such as sick leave or vacation. The article also states that at least 20 jurisdictions permit a father to take leave for the birth or adoption of a child. 7/

PART III

ALTERNATIVE WORK SCHEDULES

The phrase "alternative work schedules" refers to a number of possible arrangements in which an employe works on a different schedule than the traditional five eight-hour days with standard beginning and ending times. Alternative work schedules may take the form of:

a. Flexible employment schedules (commonly referred to as "flextime") in which an employe may work a number of "core hours" in the middle of a day, but have beginning or ending times that are different than the norm;

b. Compressed work schedules, in which an employe may work, for example, four 10-hour days rather than five eight-hour days; and

c. Permanent part-time employment, in which an employe works less than 40 hours per week on a permanent basis; one form of permanent part-time employment is job-sharing, in which two employes, working on different schedules, share the same job.

A. FEDERAL LAW

1. Federal Employees Flexible and Compressed Work Schedules Acts of 1978 and 1982

In 1978, federal legislation was enacted which established a three-year federal experiment with alternative work schedules for federal employes [P.L. 95-390]. Following a short-term four month extension of the Act, a second three-year experimental program was enacted in 1982 for another three-year period [P.L. 97-221]. In 1985, the "sunset clause" in the 1982 legislation was repealed, thereby making permanent the Federal Employees Flexible and Compressed Work Schedules Act.

The Federal Employees Flexible and Compressed Work Schedules Act of 1982 added to the 1978 legislation a "purpose clause" which states as follows:

> The Congress finds that the use of flexible and compressed work schedules has the potential to improve productivity in the Federal Government and provide greater service to the public [5 U.S.C. s. 6120].

The current federal law, as it stands after repeal of the "sunset clause," states that each federal agency may establish programs which allow the use of flexible schedules which include: (a) designated hours and days during which an employe on such a schedule must be present for work; and (b) designated hours during which the employe may elect the time of arrival and departure from work. The employe's choice is "...subject to limitations generally prescribed to ensure that the duties and requirements of the employee's position are fulfilled." The current law also allows an agency to establish programs which use a four-day workweek or other compressed schedules.

The current federal law also allows an agency head who finds that a particular flexible or compressed schedule has had or would have an "adverse agency impact," to discontinue or not establish such a schedule. The phrase "adverse agency impact" is defined as follows:

> (1) a reduction of the productivity of the agency;
>
> (2) a diminished level of services furnished to the public by the agency; or
>
> (3) an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed schedule) [5 U.S.C. s. 6131 (b)].

The current federal law also contains provisions relating to computation of overtime pay, pay for holidays, use of time-recording devices, resolution of impasses between agencies and unions and prohibition of coercion under flexible or compressed work schedules.

In early 1985, the U.S. Office of Personnel Management (OPM) prepared a report on use of alternative work schedules by federal employes. 8/ The report stated that information reported to OPM by 41 departments and agencies indicated that as of August 1982, there were 175,000 employes covered by alternative work schedules. Approximately 25% of those employes were covered under programs established through negotiation with employe unions. As of July 31, 1984, the total number of employes covered under a program had grown to 308,000, with more than 50% in programs established through negotiation with unions.

The OPM report also reviewed, as required by P.L. 97-221, the experience of agencies with alternative work schedules. The findings of the report may be summarized as follows:

a. While agencies generally found it difficult to measure productivity changes based solely on alternative work schedules, some did

report that the flexibility and longer working hours available under those schedules enhanced productivity in some work situations. Data indicated that compressed work schedules worked efficiently and improved productivity only in certain types of agencies. Those schedules seemed to work best in agency field operations, computer operations and in most shift operations, but did not generally work well in organizations that need full-time staffing to meet their mission or public service needs, since specialized personnel were often absent when needed, particularly on Mondays and Fridays.

b. Agencies perceived that staggered work hours and compressed schedules helped employes arrange travel outside of normal rush hours, reduced traffic congestion, shortened commuting time and increased the use of mass transit and car pools. However, several agencies commented that these schedules actually created car pool scheduling problems for some employes.

c. Agencies reported that energy consumption in public buildings did not appear to be significantly affected by alternative work schedules, although several agencies reported increases in utility costs because of extended hours of operation.

d. A majority of agencies reported that their ability to serve the public was either unchanged or enhanced by alternative work schedules.

e. Agencies generally reported no change in employment opportunities as a result of alternative work schedules, although at least one agency reported that these schedules were an important factor in staffing hard-to-fill positions. Also, several other agencies reported that these schedules enabled them to retain workers who otherwise would have resigned or changed to part-time employment because of child care, schooling or other outside commitments.

f. Agencies reported that employes who participated in alternative work schedules were generally enthusiastic about it. This appeared to be true for both job satisfaction and satisfaction with nonwork life.

The OPM report indicated that the 1982 legislation allowed agencies to unilaterally terminate any alternative work schedule program on a one-time basis, within 90 days following enactment of the law, if it was determined to have an adverse agency impact. Fifteen agencies reported terminations of alternative work schedules covering 4,800 employes under this provision, with the most prevalent reasons for termination cited as: (a) nonavailability of qualified employes when needed; (b) decreased productivity; and (c) deterioration in service to the public.

In the conclusion to its report, OPM stated that while there were some serious problems in the first three years of the experiment, the experience in the last three years of the experiment indicated that problems were relatively few. In many cases, these problems could be resolved by modifying or limiting the alternative work schedule rather than terminating it. The report stated that alternative work schedules probably have earned a permanent place in the management of the federal work force. The report stated as follows:

> The current temporary authorization of AWS [alternative work schedules] followed three years of experimentation between 1979 and 1982. Based on these six years of experience, AWS appears to be generally successful and to have relatively few drawbacks in productivity, service, or costs. In some circumstances, alternative work schedules can have beneficial effects by increasing hours of service or productivity. Also, these schedules can afford benefits to employees in meeting non-work needs and enhancing employee satisfaction. For example, working mothers can use the flexibility available to schedule work so as to better meet both home and office responsibilities. Generally, alternative schedules can allow Federal employees to spend more time with their families, and the schedules are very well-liked by employees. 9/

2. Federal Employees Part-Time Career Employment Act of 1978

The Federal Employees Part-Time Career Employment Act of 1978 (P.L. 95-437) was enacted "to provide increased part-time career employment opportunities throughout the Federal Government." The law is set forth in U.S.C. s. 3401, et seq., and defines part-time career employment to mean employment of 16 to 32 hours a week, but not including employment on a temporary or intermittent basis. The law covers executive and judicial branch agencies, military departments, the Library of Congress, the Botanic Gardens and the Office of the Architect of the Capitol. The law does not cover the the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency and government controlled corporations.

Public Law 95-437, which created the law, set forth congressional findings which stated that part-time work: (a) allows older individuals to make a gradual transition into retirement; (b) provides employment opportunities to the handicapped and others who require a reduced work week; (c) benefits students who must finance their own education or

vocational training; and (d) allows parents to balance family responsibilities with the need for additional income. The congressional findings also stated that part-time employment:

> (E) Benefits the Government, as an employer, by increasing productivity and job satisfaction, while lowering turnover rates and absenteeism, offering management more flexibility in meeting work requirements, and filling shortages in various occupations; and
>
> (F) Benefits society by offering a needed alternative for those individuals who require or prefer shorter hours (despite their reduced income), thus increasing jobs available to reduce unemployment while retaining the skills of individuals who have training and experience [SEC. 2 (a) (2) (E) and (F) of P.L. 95-437].

The law requires each federal agency to issue regulations establishing and maintaining a part-time career employment program within the agency. The regulations must provide for: (a) the review of vacant positions which may be filled on a part-time basis; (b) procedures and criteria to be used for establishing, or converting to, part-time positions; (c) annual goals; (d) a continuing review and evaluation of the program; and (e) procedures for notifying the public of vacant part-time positions.

A May 1986 report by the Congressional Research Service states that agencies which employ the largest number of part-time workers are the Veterans Administration and the Departments of Defense, Health and Human Services, Treasury, Agriculture and Interior. 10/

A July 1986 report by the U.S. General Accounting Office (GAO) states that permanent part-time employment increased from 46,738 employes in January 1979, to a peak of 60,610 employes in January 1981, and then declined to 54,041 employes in January 1986. [Employes of the Postal Service are not included.] The GAO report indicates that as of January 1981, part-time employes were about 3.1% of the permanent federal civilian work force and that as of January 1986, they were about 2.7%. The GAO report states that in July 1985, women comprised 71% of the part-time work force, compared to 41% of the federal full-time work force. 11/

According to the GAO report, OPM officials attributed the overall decline in part-time employment to the following three factors:

> (1) a reluctance by managers, due perhaps to lack of information or a negative attitude about the program, to employ part-time workers; (2) cuts in employment levels in nondefense agencies; and (3) past and current budget reductions and hiring freezes at several agencies.

In surveying selected agencies regarding their views, GAO stated that agency officials cited the following as problems in filling part-time positions:

a. Part-time income is low relative to the cost of transportation and the general cost of living;

b. New employes are interested in part-time employment only as a stepping-stone to full-time employment, thereby causing significant turnover in part-time positions; and

c. Fewer employes are interested in converting from full-time to part-time employment.

B. STATE LAW

In 1978, Wisconsin enacted legislation regarding the use of part-time employment and flextime schedules by state employes. The legislation, which is set forth in s. 230.215, Stats., resulted from a bill recommended for introduction by the Legislative Council's Special Committee on Part-Time Employment. [A copy of s. 230.215, Stats., and administrative rules promulgated by DER regarding alternative work patterns are set forth in Appendices B and C to this Staff Brief.]

The "declaration of policy," set forth in s. 230.215 (1), Stats., states the benefits of permanent part-time employment and flextime employment to both employes and the state. In part, the policy states that the Legislature finds:

> (a) That employment practices which provide flexibility in scheduling hours of work often result in increased worker productivity, reduced absenteeism, improved employe morale and a more economical and efficient use of energy, highways and other transit systems.
>
> (b) That traditional full-time work patterns fail to meet the needs of many potentially productive citizens who, due to age, health or family

> circumstances, are effectively prevented from engaging in full-time employment [s. 230.215 (1) (a) and (b), Stats.].

The "declaration of policy" goes on to state that it is the intent of the Legislature that all agencies of the state participate in creating flextime schedules, additional permanent part-time positions and other alternative work patterns in order to maximize, in a manner consistent with the needs of state service, the employment options available to existing and potential state employes.

The Wisconsin law requires each state agency to develop a plan for the establishment of employe flextime experiments. The plan is required to attempt to maximize efficiency of agency operations, the level of services to the public, energy conservation and employe productivity and must consider traffic congestion, transit facilities and other relevant factors.

The Wisconsin law also states that an agency may, with the approval of the Secretary of DER and the Secretary of the Department of Administration, restructure budgeted permanent positions as they become vacant or if an employe voluntarily requests a job-sharing or permanent part-time employment opportunity. However, the law provides that no employe occupying a full-time permanent position may be involuntarily terminated, demoted, transferred or reassigned in order to restructure that position. Also, no employe may be required to accept a permanent part-time position as a condition of continuing employment.

Under DER's administrative rules regarding alternative work patterns [ch. ER 42, Wis. Adm. Code], each agency is required to file with DER a biennial alternative work patterns plan that includes the following components:

1. A policy statement which affirms the commitment of the agency to ensure that written requests of employes for alternative work patterns will be approved in accordance with the law.

2. An analysis of employe interest in alternative work patterns.

3. Identification of state and agency policies and practices which impede development or implementation of those work patterns.

4. An update of policies initiated or actions taken.

5. An evaluation of the agency's performance.

6. Appointment of an alternative work patterns coordinator.

7. A description of programs to inform employes of the agency's work patterns policy statements and plan.

8. Identification of a system for regularly monitoring the effectiveness and progress of the program.

The most recent compilation of agencies' experiences with alternative work patterns was prepared in 1981 by DER and describes state agency patterns in 1980. 12/ The DER report states that agencies were asked by DER to allow 6% of their permanent work force to participate in part-time employment. The report states that, in 1980, the following types of agencies attained or exceeded that goal: (1) six of 10 agencies with 500 or more employes; (2) nine of 10 agencies with 100 to 499 employees; and (3) nine of the 19 agencies with less than 100 employes. The report states that the overall ratio of permanent part-time employes to all permanent employes went from 6.8% in 1979 to 7.6% in 1980.

The DER report points out that the percentage gains in flexible work hours were considerably more dramatic than the increase in permanent part-time employment. The report states that whereas, in 1979, 7.3% of the permanent work force had access to flexible hours, in 1980, 12.7% of the permanent work force were in flextime units or were actually on flextime.

C. OTHER INFORMATION

Although considerable information is available regarding use of alternative work schedules by employes of the federal government, information is less complete regarding use of such schedules by other employers.

In 1986, the Administrative Management Society surveyed 308 companies nationwide and found that 29% gave their workers a choice of when they started work and when they wanted to leave for the day. According to a summary of the Administrative Management Society survey, in a United Press International (UPI) article, the types of firms most likely to offer flextime include educational institutions, publishing houses, consulting firms and government agencies; and those least likely to offer it were retail and wholesale businesses. The Administrative Management Society survey, according to UPI, stated that companies that allowed employes to set their work hours did so because "...it improved attitude and morale, accommodated working parents, and helped workers avoid congested highways and trains." 13/ The UPI article also said that a similar study in 1981 showed that 22% of the companies had instituted flextime and a 1977 survey found that only 15% of the companies did so, although no sources were cited in the article for these figures.

With regard to use of flextime schedules in the private sector, two sources have indicated that 10 million employes use these schedules. This figure was cited by: (1) the Bureau of National Affairs, Inc. 14/; and (2) U.S. Representative Stan Parris, in testimony before the House Committee on Post Office and Civil Service, Subcommittee on Human Resources. 15/

With regard to the use of part-time employment, a survey conducted by the U.S. Bureau of Labor Statistics of medium and large firms (defined as those with at least 100 or 250 employes, depending upon the industry) for 1984, shows that straight-time work schedules of 40 hours per week applied to 85% of the employes covered under the survey. By type of employe, the following had shorter workweeks: 19% of the professional-administrative employes, 27% of the technical-clerical employes and 6% of the production workers. The survey also showed that less than 2% of the work force was scheduled to work other than a five-day week. 16/

In a 1983 book, entitled The Complete Guide to Job Sharing, the author states that the number of people working fewer than 34 hours a week had increased over the past 20 years from 14% to 33% of the work force. 17/

PART IV

HEALTH CARE COVERAGE

This Part of the Staff Brief discusses health care coverage options that are available to persons in Wisconsin. Although the Medicaid program is typically thought of as a program for persons without employment, it is available for employed persons under certain circumstances and will therefore be discussed in this Part. For example, a person in the work force may not earn enough to disqualify the person from receipt of Aid to Families with Dependent Children (AFDC); therefore, such a person will be able to continue eligibility for Medicaid because AFDC eligibility continues. Also, persons in Wisconsin who become disqualified for AFDC because their earnings are too high (due to limitation of certain income disregards) may continue to receive Medicaid for nine months following their disqualification for AFDC.

A. FEDERAL LAW

1. Medicaid

Medicaid (also referred to as "Medical Assistance" or "Title XIX" in reference to Title XIX of the Social Security Act) is a program that is jointly funded by the federal and state governments and administered by the states. In Wisconsin, the agency charged with the administration of the program is the Department of Health and Social Services (DHSS), which does so primarily through a contract with the private firm of EDS-Federal. Medicaid provides coverage of medical costs to persons satisfying stringent asset and income tests. Medicaid recipients are classified as either: (a) categorically needy, i.e., recipients of AFDC or persons who are over age 65, blind or disabled who are recipients of Supplemental Security Income (SSI); or (b) medically needy, i.e., persons who meet certain nonfinancial requirements for AFDC or SSI and who satisfy asset and income standards set forth in the statutes.

Federal law requires states to provide a group of selected basic medical services to Medicaid recipients. Federal funding is also available to states which elect to expand their Medicaid programs by covering specified optional services. In Wisconsin, services under the Medicaid program are supported by approximately 58% federal funding and 42% state funding.

Federal law requires that states provide between nine and 15 months of continued Medicaid coverage for persons who become ineligible for AFDC because of excess earned income (due to limitation of certain income

disregards). Under Wisconsin law, these persons are eligible to continue to receive Medicaid for nine months following ineligibility for AFDC. [Under 1985 Wisconsin Act 29 (the 1985-87 Biennial Budget Act), the extended coverage was increased, to satisfy federal requirements, from four months to 12 months, but was later reduced to nine months by 1985 Wisconsin Act 120.]

2. Federal Health Insurance Continuation/Conversion Law

A recently-enacted federal law provides that a person covered under an employer's group health insurance plan is entitled to continue group coverage under specified conditions [Title X of P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985]. The law is similar to Wisconsin's law on this subject, described in Part IV, B, 2, of this Staff Brief, although there are some differences. The differences between the federal and Wisconsin laws are highlighted in a comparison chart prepared by the Wisconsin Office of the Commissioner of Insurance; the chart is set forth in Appendix D to this Staff Brief.

The federal law requires continued coverage if the person satisfies any of the following conditions:

a. The person is divorced or legally separated from the group member.

b. The person's employment is terminated, other than by reason of his or his "gross misconduct" or his or her work hours are reduced.

c. The person is the spouse or dependent of a covered employe who dies.

d. The person is a spouse or dependent of a covered employe who becomes entitled to receive Medicare.

e. The person is a dependent child who ceases to be a dependent child under the generally applicable requirements of the plan.

The federal law does not apply to employers with fewer than 20 employes on a typical business day during the preceding calendar year, federal employe plans and church plans, as defined by federal law.

The federal law imposes requirements on administrators of plans to notify persons of their continuation rights. Also, the law states that a person who elects continuation coverage may not be charged more than 102% of the premium for insurance for similarly situated persons who have not left the group and provides special rules for calculation of continuation

premiums for self-insured plans. Continuation coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

The federal law requires continuation coverage until the earliest of the following occurs:

a. The maximum continuation period has expired; this is 18 months for persons who terminate employment or have their hours reduced and 36 months for persons who would otherwise leave the group for any of the other reasons cited above.

b. The employer ceases to provide any group health insurance plan to any employe.

c. The person fails to make timely payment of any premium required.

d. The person is a spouse or dependent who becomes a covered employe under another group health plan or becomes entitled to receive benefits under Medicare.

e. The person is a spouse who is covered under a continuation policy and he or she remarries and becomes covered under another group health plan.

In the case of a person whose continuation period expires after 18 months or 36 months, the group health plan must, during the 180-day period ending on the expiration date, provide to the person the option of enrollment under a conversion health plan otherwise generally available under the plan.

B. STATE LAW

1. State Employe Health Insurance

Employes of the State of Wisconsin are given a choice of enrolling in either a standard health insurance plan or a number of health maintenance organization (HMO) plans. The number of HMO's available for an employe to choose from varies depending on the county in which the employe resides. The amount of the premium paid by the state differs depending on whether the employe elects individual or family coverage and on which plan the employe chooses. The employe may pay no premium or a low premium for the lower cost plans.

State statutes set out the state's contribution toward employe health insurance and require an employe who chooses to be covered by state health

insurance to pay the difference between the state's contribution and the cost of the plan chosen. The state pays 90% of the premium for the standard health insurance plan or 105% of the premium of the least costly plan (usually an HMO) offered within the county in which that plan is located, whichever is lower, but not more than the total amount of the premium. The Group Insurance Board of the Department of Employe Trust Funds determines which plans qualify to be offered to state employes. Also, for insured part-time employes who are appointed to work less than 1,044 hours per year (i.e., half-time or less), the state will pay an amount equal to 50% of the state's contribution toward the premium of a full-time employe [s. 40.05 (4), Stats.].

2. Wisconsin Health Insurance Continuation/Conversion Law

Wisconsin law provides that a person covered under a group health insurance plan is entitled to continue group coverage or convert to individual coverage if he or she satisfies any of the following conditions:

a. The person is divorced from the group member or the marriage is annulled.

b. The person would otherwise leave the group (e.g., the person is laid off or loses his or her job), other than for discharge due to misconduct in connection with his or her employment.

c. The person is the spouse or dependent of a group member if the group member dies while covered and the spouse or dependent was also covered [s. 632.897, Stats.].

The law requires an employer who is notified to terminate coverage, for any of the reasons specified above, to provide the person with written notice of the right to continue group coverage or convert to individual coverage. The notice must be given not more than five days after the employer receives notice to terminate coverage. The amount paid by the person for continued group coverage may not exceed the employer's group rate, including the employer's contribution. The premium for individual coverage is determined in accordance with the insurer's table of premium rates applicable: (a) to the age and class of risks of each person to be covered under the policy; and (b) to the type and amount of coverage provided.

Persons who elect to covert to individual coverage are entitled to have the insurer issue to them, without evidence of insurability, individual coverage that is reasonably similar to the coverage provided under the policy that is terminated. The Commissioner of Insurance is

required to promulgate rules that set forth three plans of individual coverage, varying in degree of covered benefits, to be offered as individual conversion policies. An insurer provides "reasonably similar individual coverage," if the person is offered his or her choice of those three plans or is offered a high limit comprehensive plan of benefits regularly provided by the insurer for conversions and approved for this purpose by the Commissioner of Insurance.

If the person elects to continue group coverage as provided under the law, the insurer may require conversion to individual coverage 18 months after the person chooses group coverage.

Because of preemption by federal law [the Employee Retirement Income Security Act, 29 U.S.C. s. 1144], the Wisconsin health insurance continuation/conversion law does not apply to employers with self-insured employe benefit plans.

3. State Health Insurance Program

1985 Wisconsin Act 29 required DHSS to design a state health insurance program (hereinafter "SHIP"), with the advice of the Council on Health Care Coverage for the Uninsured (hereinafter the "SHIP Council"), which was created under the Act. [See s. 146.90, Stats., created by Act 29, which is included in Appendix E to this Staff Brief.]

The legislative history behind the Act 29 provision on SHIP actually began in 1981 with the establishment of the Legislative Council's Special Committee on Medical Assistance. That Committee recommended legislation which was ultimately enacted as 1983 Wisconsin Act 348 in April 1984. Act 348 required DHSS, in cooperation with the Office of the Commissioner of Insurance, to prepare a model health insurance plan for uninsured low-income persons. Following enactment of Act 348, DHSS contracted with David Riemer to prepare a report on this subject. The report, completed in December 1984, described the uninsured population in the United States and Wisconsin; described existing programs providing health care to Wisconsin's uninsured; set forth alternative health insurance plans that could be offered to uninsured persons; discussed issues regarding provision of health insurance to the uninsured; and examined the assumptions underlying alternative plans. 18/

Closely following publication of the Riemer report, the Assembly Committee on Health established a Subcommittee on Insurance for the Uninsured in early 1985. That Subcommittee recommended the legislation which was ultimately included in Act 29 as s. 146.90, Stats.

Under the law, DHSS, with the advice of the SHIP Council, is required to design a state health insurance program to provide health care coverage to uninsured persons and is required to submit a plan detailing the structure, operation and management of the program to the Legislature's Joint Committee on Finance by January 1, 1987.

The law sets forth eight elements for DHSS to consider in designing the structure of the program and five areas in which policies and procedures must be included by DHSS in designing the operation and management of SHIP. The DHSS is required, in addition to developing this program, to design an alternative health care coverage program for uninsured persons for whom coverage under the first program would not be feasible or would not be appropriate.

The law further states that DHSS, with the advice of the SHIP Council, must develop pilot projects to test the programs designed. The DHSS must submit its recommendations for the pilot projects, including a suggested timetable, evaluation methodology and projected costs, to the Joint Committee on Finance by January 1, 1987. At least one pilot project must be conducted in each of the following areas:

a. A county without a city of the first, second or third class.

b. A city of the second or third class.

c. All or part of a city of the first class (i.e., Milwaukee).

In each county in which a recommended pilot project is conducted, the county board or, where applicable, the county executive or county administrator, must appoint a local advisory committee to: (a) assist in the implementation of the pilot project; (b) provide information and advice regarding developing the pilot project; and (c) evaluate the effectiveness of the pilot project.

The law provides that the Joint Committee on Finance, after receipt of the plan developed by DHSS, must hold hearings and, by July 1, 1987, determine whether to approve, approve with modifications or disapprove the pilot project recommendations for inclusion in the 1987-89 Biennial Budget Bill. If the Joint Committee approves the pilot project recommendations, it is required to direct DHSS to: (a) conduct the approved pilot projects; and (b) submit a detailed evaluation of the pilot projects to the Joint Committee on Finance. Also, the Joint Committee may require DHSS to submit to the Joint Committee a revised plan for a SHIP and a revised plan for alternative health care coverage, each of which incorporates the results of the evaluation of the pilot projects and includes detailed cost estimates of implementing the programs on a

statewide basis and operating them for a 10-year period beginning on July 1, 1989.

Finally, Act 29 requires the Joint Committee on Finance to decide, during the deliberations on the 1989-91 Biennial Budget Bill, whether and in what manner SHIP should be implemented on a statewide basis.

The SHIP Council is chaired by Professor Ralph Andreano and began meeting in February 1986. The operation of the SHIP Council is financed by assessments on hospitals, with each hospital paying in proportion to its gross private-pay patient revenues during the hospital's most recent fiscal year. Appropriations for the SHIP Council are $135,000 in fiscal year 1985-86 and $132,100 in fiscal year 1986-87.

4. WisconCare

WisconCare is a program created by Act 29 as a continuation of a program known as ShareCare. ShareCare began in the Fall of 1983 and ended in mid-1985, when federal funding expired. ShareCare provided primary outpatient medical services and inpatient maternity coverage to uninsured individuals and families who were experiencing recession-related unemployment or underemployment. The program provided coverage in 17 counties and served over 19,000 persons.

To replace ShareCare, Act 29 created WisconCare in ss. 146.93 and 146.96, Stats. The law directs DHSS to develop and implement an initial program to provide primary health care services to unemployed or underemployed persons from October 1, 1985 to June 30, 1986. The law also requires the program to be modeled on ShareCare and to include coverage of diagnostic laboratory and X-ray services, prescription drugs and nonprescription insulin and insulin syringes.

To qualify for WisconCare, an individual must: (a) be unemployed or employed less than 25 hours per week; (b) have a family income not greater than 150% of the federal poverty level; and (c) not have health insurance or other health care coverage and be unable to obtain health insurance or other health care coverage. The program established by DHSS during 1985-86 focused on the 17 counties covered by ShareCare and Kenosha County. 19/

As required by the law, DHSS submitted a plan for WisconCare for 1986-87 to the Joint Committee on Finance. That plan, approved by the Joint Committee on Finance on April 29, 1986, continues the 1985-86 WisconCare plan with no changes (other than a change related to the price at which providers receive reimbursement for prescription drugs).

Act 29 appropriated $1,225,000 in 1985-86 and $1,820,000 in 1986-87 in program revenue to DHSS for the operation of WisconCare. The program revenue is provided by assessments on hospitals, with each hospital paying in proportion to its gross private-pay patient revenues during the hospital's most recent fiscal year. Contracts have been entered into by DHSS with the Wisconsin Primary Health Care Association and the Marshfield Medical Foundation to enroll providers and clients and to process claims under WisconCare.

C. OTHER INFORMATION

1. Reports on the Uninsured in the United States

The Riemer report, which was prepared under contract with DHSS, summarizes the findings of a number of reports on persons without health insurance in the United States. Table 4 summarizes the findings of the most recent reports with respect to the percentage of the population without health insurance.

TABLE 4

PERCENT OF U.S. POPULATION WITHOUT HEALTH INSURANCE, AS PRESENTED IN THREE REPORTS IN 1982

ORGANIZATION REPORTING	PERCENT UNINSURED
House Committee on Ways and Means	17.4%
Robert Wood Johnson Foundation	8.7%
Urban Institute	16.5%*

*16.5% of U.S. population under age 65.

SOURCE: Rieser, David R., Wisconsin's Uninsured: The Scope of the Problem and Alternative Solutions. Appendix A - Recent National Surveys of the U.S. Uninsured Population (December 24, 1984).

The 1982 reports by the Robert Wood Johnson Foundation and the Urban Institute, cited in Table 4, both concluded that the majority of the uninsured adult population was employed. The Robert Wood Johnson Foundation report concluded that, for uninsured adults, 66.6% were employed, 14.7% were unemployed and 18.7% were not in the work force. 20/ The Urban Institute report concluded that 52.3% of uninsured adults were employed, 15.6% were unemployed and the remainder were categorized as either unable to work, keeping house, retired or in school. However, these figures from the Urban Institute reflect only one point in time in 1982; other Urban Institute findings show that 67.9% of uninsured adults were employed for some period of time during 1982. 21/

2. Reports on the Uninsured in Wisconsin

Two recent reports discuss persons without health insurance in Wisconsin: (a) the Riemer report, noted above, and (b) a report of a survey conducted by Peter D. Hart Research Associates (a Washington, D.C.-based public opinion polling firm), under contract with a coalition of Wisconsin health insurers. 22/

The Riemer report concluded that 10.2% of the state's population have no health insurance. The Riemer report stated that 59.0% of the adult uninsured population is in the work force and of those persons, over 88% are employed and over 58% are employed full time. 23/

The Hart report concluded that 6.9% of Wisconsin households have no health insurance. Like the Riemer report and the national reports described in this section of the Staff Brief, Hart concluded that a majority of uninsured adults were employed. The employment status of uninsured adults was as follows: employed full-time, 32%; employed part-time, 23%; full-time homemaker, 12%; retired, 6%; student, 3%; and unemployed, 24%. Of the unemployed respondents, Hart states that the length of unemployment has been relatively brief. For example, 57% have been unemployed for less than one year. Also, 54% of the unemployed had health insurance with their last employer. 24/

RNS:md:kjf:jc:kjf;las

FOOTNOTES

1/ Little, Caroline, "Mother Load or Overload: The Need for a National Maternity Policy," New York University Journal of International Law and Politics, Vol. 17, pp. 717, 725 (Spring 1985).

2/ Schroeder, Representative Patricia, Parental and Medical Leave: H.R. 4300: Briefing Paper, pp. 1 and 2 (July 17, 1986).

3/ Catalyst, Report on a National Study of Parental Leaves, p. 17 (1986).

4/ Bureau of National Affairs, Inc., Work and Family: A Changing Dynamic, pp. 102 and 103 (1986).

5/ Little, supra, pp. 727 and 728.

6/ Gladstone, Leslie W., et al., Maternity and Parental Leave Policies: A Comparative Analysis, Congressional Research Service, pp. 38 and 39 (July 16, 1985).

7/ Council of State Governments, "Changing Work Force Increases Demand for Parental Laws," State Government News, p. 12 (July 1986).

8/ U.S. Office of Personnel Management, Report on Alternative Work Schedules in Federal Government (March 1985).

9/ Id., p. 9.

10/ Schwemle, Barbara L., Congressional Research Service, Library of Congress, memorandum to the House Committee on Post Office and Civil Service, Human Resources Subcommittee, p. 3 (May 1, 1986).

11/ U.S. General Accounting Office, Federal Personnel: Federal Agencies' Part-Time Employment Programs, pp. 4 and 5 (July 1986).

12/ Wisconsin Department of Employment Relations, Alternate Work Patterns in State Agencies in 1980 (April 1981).

13/ United Press International story from Lexis, Survey: "Flex Time" Improves Morale, p. 1 (May 23, 1986).

14/ Bureau of National Affairs, Inc., supra, p. 6.

15/ Hearing report of the hearing before the Subcommittee on Human Resources, Committee on Post Office and Civil Service, U.S. House of Representatives, on the proposed Federal Employees Flexible and Compressed Work Schedules Act, p. 31 (March 28 and April 24, 1985).

16/ Bureau of Labor Statistics, U.S. Department of Labor, Employe Benefits in Medium and Large Firms, 1984, Bulletin 2237, p. 3 (June 1985).

17/ Lee, Patricia, The Complete Guide to Job Sharing, Walker and Company, p. 20 (1983).

18/ Riemer, David R., Wisconsin's Uninsured: The Scope of the Problem and Alternative Solutions (December 24, 1984).

19/ Brown, Door, Douglas, Forest, Kenosha, Lincoln, Menominee, Milwaukee, Oconto, Oneida, Portage, Price, Sawyer, Shawano, Vilas, Washburn, Waukesha and Waushara Counties.

20/ Riemer, supra, p. 116.

21/ Riemer, supra, p. 113.

22/ Peter D. Hart Research Associates, "Key Findings," from a 1986 survey.

23/ Riemer, supra, p. 18.

24/ Hart, supra, pp. 2, 7 and 8.

APPENDIX A

SUMMARY OF PARENTAL LEAVE POLICIES FOR STATE EMPLOYES, BY STATE

[PREPARED BY THE COUNCIL OF STATE GOVERNMENTS]

Selected Employee Leave Policies

State or other jurisdiction	Annual leave accrual (in days per year)		Sick leave accrual (in days per year)	Paid holidays	Maternity leave		Paternity leave		Child care on state property
	first year	fifth year			Treated as sick leave and/or annual leave or leave without pay	Other provision(a)	Treated as sick leave and/or annual leave or leave without pay	Other provision(b)	
Alabama	13	16.25	13	13	*	...	...	...	
Alaska	15	18	15	10	...	*	...	...	
Arizona	12	15	12	12	*	...	...	...	
Arkansas	12	18	12	11	*	...	...	...	
California	10	15	12	13	...	*	...	...	
Colorado	12	15	15	11	*	...	*	...	
Connecticut	12	15	15	12	*	...	*(c)	...	*(g)
Delaware	15	15	15	15	*	...	*	...	
Florida	13	16	13	9	*	...	...	...	*(h)
Georgia	15	15	15	12	*	...	...	...	
Hawaii	21	21	21	13	...	*	...	*	
Idaho	12	15	12	9	*	...	...	...	*
Illinois	10	10	12	12	*	...	...	...	*
Indiana	12	15	6(d)	12	*	...	...	...	
Iowa	12	17	18	9	*	...	...	*	
Kansas	12	15	12	11	*	...	...	*	
Kentucky	11	11	12	12	*	...	...	*	
Louisiana	12	18	12	12	...	...	...	...	
Maine	12	15	12	11	...	*	...	...	
Maryland	10	10	15	14	*	...	...	...	
Massachusetts	10	15	15	13	*	...	...	...	*(g)
Michigan	13	15	13	13	...	...	...	...	
Minnesota	13(e)	13(e)	13	11	*	...	*	...	*(g)
Mississippi	18	21	12	10	...	...	*	...	
Missouri	15	15	15	11	*	...	...	...	
Montana	15	15	12	11	...	...	...	...	
Nebraska	12	15	12	12	*	...	...	*	
Nevada	15	15	15	9	*	...	*	...	
New Hampshire	12	15	15	12	*	...	...	...	
New Jersey	12	15	15	13	*	...	*	...	
New Mexico	15	15	12	9	...	...	...	...	
New York	14	18	13	12	*	...	*	...	*
North Carolina	11.75	16.75	12	11	*	...	...	*	
North Dakota	12	15	12	9	*	...	...	...	
Ohio	10	10	7	10	*	...	*	...	*(h)
Oklahoma	15	18	15	...	*	...	*	...	
Oregon	12	15	12	10	*	...	...	...	
Pennsylvania	10.4(f)	15.6(f)	13	10	*	...	*	...	
Rhode Island	10	15	15	10	...	*	...	...	
South Carolina	15	15	15	11 to 13	*	...	...	...	
South Dakota	15	15	14	9	*	...	...	...	
Tennessee	12	18	12	11	*	...	...	...	
Texas	10.5	13.5	12	14	*	...	*	...	
Utah	13	13	13	11	*	...	...	...	
Vermont	12	15	12	13	...	*	*	...	
Virginia	12	15	15	11	*	...	*	...	
Washington	12	15	12	11	*	...	*	...	*
West Virginia	15	18	18	14	*	...	...	...	
Wisconsin	10	15	13	11.5	*	...	*	...	
Wyoming	12	15	12	9	...	...	...	...	
Puerto Rico	30	30	18	19	...	*	...	...	

Source: Information derived from survey of state personnel offices conducted by The Council of State Governments (March 1986) for the National Association of State Personnel Executives.

(a) Formal provision for maternity leave—Alaska, California, Vermont, Puerto Rico. After using sick leave, employee can acquire "child care" leave—Hawaii. Determined by union contract—Maine, Rhode Island.

(b) After using sick leave, employee can acquire "child care" leave—Hawaii. Annual leave available for family needs—Iowa and Kansas (five days), Kentucky (varies). Contingent upon approval of agency head—Nebraska, North Carolina.

(c) Three days of sick leave as paternity leave.

(d) Full-time employees with over five years of service, who have used all annual and sick leave, may apply for sick leave at the rate of one week for each year of service.

(e) Managerial personnel receive 19 1/2 days.

(f) As part of a collective bargaining agreement, new state employees (those hired since July 1, 1985) receive only 5.2 annual leave days in their first year of employment, and 10.4 in their fifth year.

(g) Limited.

(h) Pilot study.

APPENDIX B

WISCONSIN LAW ON PART-TIME AND FLEXTIME WORK SCHEDULES

[s. 230.215, Stats.]

Section 230.215, Stats.

230.215 PART-TIME EMPLOYMENT AND FLEXIBLE-TIME SCHEDULES. (1) DECLARATION OF POLICY. The legislature finds and declares:

(a) That employment practices which provide flexibility in scheduling hours of work often result in increased worker productivity, reduced absenteeism, improved employe morale and a more economical and efficient use of energy, highways and other transit systems.

(b) That traditional full-time work patterns fail to meet the needs of many potentially productive citizens who, due to age, health or family circumstances, are effectively prevented from engaging in full-time employment.

(c) That a greater number of permanent part-time employment opportunities are necessary to allow citizens a higher level of participation in the work force and to permit a greater utilization of the skills, talents and abilities of all citizens who want to work.

(d) That it is the intent of the legislature that all agencies of state government participate in developing and creating flexible-time work schedules, additional permanent part-time positions and other alternative work patterns in order to maximize, in a manner consistent with the needs of state service, the employment options available to existing and potential state employes.

(e) That it is the intent of the legislature that all agencies of state government make available permanent part-time employment opportunities in classified positions.

(2) FLEXIBLE-TIME EMPLOYMENT SCHEDULING. In this subsection "flexible-time schedule" means a work schedule which includes required days or hours during which an employe subject to the work schedule must be present for work and designated hours during which the employe, with the approval of his or her supervisor, may elect a time of arrival to and departure from work. Every agency shall develop a plan for the establishment of employe flexible-time schedule experiments. The plan shall attempt to maximize efficiency of agency operations, the level of services to the public, energy conservation and employe productivity and shall consider traffic congestion, transit facilities and other relevant factors.

(3) PART-TIME EMPLOYMENT. (a) An agency may, with the approval of the secretary and with the approval of the secretary of administration under s. 16.50, restructure budgeted permanent positions as such

positions become vacant or if an employe voluntarily requests a job-sharing or permanent part-time employment opportunity. No employe occupying a full-time permanent position may be involuntarily terminated, demoted, transferred or reassigned in order to restructure that position for permanent part-time employment and no such employe may be required to accept a permanent part-time position as a condition of continued employment.

(b) If the secretary, upon review of the report submitted under sub. (4), determines that an agency's past or proposed actions relating to permanent part-time employment opportunities do not adequately reflect the policy under sub. (1) (e), the secretary may recommend procedures designed to enable the agency to effect such policy.

(c) Permanent part-time appointments may be made for any number of hours in excess of 600 hours per year.

(4) REPORTS. Each agency, in complying with s. 15.04 (1) (d), shall include a report on the progress or failure of the plans of such agency in achieving the policies stated under sub. (1) and shall submit a copy of such report to the secretary.

(5) NONAPPLICATION. Section 230.35 (5) does not apply to employes subject to part-time employment and employe flexible-time scheduling under this section.

APPENDIX C

WISCONSIN ADMINISTRATIVE RULES ON PART-TIME AND FLEXTIME WORK SCHEDULES

[ch. ER 42, Wis. Adm. Code]

Chapter ER 42

ALTERNATIVE WORK PATTERNS

ER 42.01 Policy
ER 42.02 Definitions
ER 42.03 Alternative work patterns plan
ER 42.04 Plan components
ER 42.05 Review of plans
ER 42.06 Monitoring and evaluation
ER 42.07 Request for information

ER 42.01 Policy. Recognizing the need to maximize the employment options available to existing and potential state employes and to maintain or increase agency efficiency and service to the public, it is the policy of the state to provide alternative work patterns in a manner consistent with the needs of state service.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 42.02 Definitions. In this chapter:

(1) "Alternative work patterns" means work schedules which differ from the standard work schedule for full-time permanent or project employment, including but not limited to: part-time, shared time and flexible-time schedules which may result from position restructuring, the creation of additional part-time positions, or other work schedule changes.

(2) "Flexible-time schedule" means a work schedule which includes designated hours during which the employe may, with the approval of the supervisor and under work unit plans approved by the appointing authority, elect an alternative time of arrival for and departure from work. It may also include required days or hours during which an employe subject to the work schedule must be present for work.

(3) "Position restructuring" means regrouping the duties and responsibilities of a position to allow for part-time employment, shared time, or flexible-time work schedules.

(4) "Shared time" means coordinated permanent or project part-time employment involving 2 or more persons sharing the same duties and responsibilities of a budgeted position.

(5) "Standard work schedule" means the typical designation and duration of work hours for a given position in an employing unit.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 42.03 Alternative work patterns plan. In accordance with the timetables established by the secretary, each appointing authority shall prepare and file with the secretary a biennial alternative work patterns plan that:

(1) Applies to all classified employes, except in those instances where specific provisions are covered by a collective bargaining agreement under subch. V of ch. 111;

(2) Provides policies and procedures to implement this state's alternative work patterns policies under s. ER 42.01 and s. 230.215, Stats.; and

(3) Includes the minimum plan components described in s. ER 42.04.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 42.04 Plan components. Each agency plan under s. ER 42.03 shall include the following components:

(1) A policy statement which affirms the commitment of the appointing authority to ensure that written requests of employes for alternative work patterns shall be approved in accordance with the agency approved plan, state policy under s. ER 42.01 and s. 230.215, Stats., and standards established by the secretary.

(2) An analysis of employe interest in alternative work patterns, including the extent to which the agency has been able to accommodate written requests for alternative work patterns.

(3) Identification of state and agency policies and practices which impede development or implementation of alternative work patterns policies or procedures.

(4) An update of policies initiated or actions taken which have affected positions identified for alternative work patterns, including the restructuring of positions and the rationale for that action.

(5) An evaluation of the agency's performance in implementing the provisions and achievement of the goals of the previous plan.

(6) Appointment of an alternative work patterns coordinator within the agency personnel office.

(7) Description of programs to inform all employes of the agency's alternative work patterns policy statements and plan.

(8) Identification of a system for regularly monitoring the effectiveness and progress of the program in meeting the plan objectives, including identification of mechanisms for updating and modification of the program.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 42.05 Review of plans. The secretary shall review all agency alternative work patterns plans, as follows:

(1) Approval of plans that meet standards established by the secretary and notification of the appointing authority of such approval.

(2) Provision of written recommendations and rationale to the respective agency for any plan which does not meet the established standards.

(3) Provision of technical assistance to assist the agency in achieving compliance with the standards.

(4) Opportunity for the respective agency to review the secretary's findings and respond in writing.

(5) Review and consideration of an agency's response to the initial findings, resulting in a declaration of findings that the agency is either in compliance or noncompliance under ss. ER 42.03 and 42.04.

(6) Recommendation of procedures designed to enabl the agency to achieve compliance with the standards.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 42.06 Monitoring and evaluation. On an ongoing basis, the secretary shall monitor and evaluate each agency's progress toward alternative work patterns goals and objectives in implementing the policy of the state and shall make specific recommendations regarding methods through which the respective agencies may improve their efforts.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

ER 42.07 Request for information. Upon request of the secretary, the appointing authority shall provide information concerning employes involved in their alternative work patterns program. Confidentiality of information shall be maintained by the secretary under state or federal law.

History: Cr. Register, February, 1984, No. 338, eff. 3-1-84.

APPENDIX D

COMPARISON BETWEEN THE FEDERAL AND WISCONSIN LAWS ON CONTINUATION OR CONVERSION OF HEALTH INSURANCE COVERAGE

[PREPARED BY THE WISCONSIN OFFICE OF THE COMMISSIONER OF INSURANCE]

The State of Wisconsin
Office of the Commissioner of Insurance

OCI

Thomas P. Fox
Commissioner
(608) 266-3585

WISCONSIN AND FEDERAL CONTINUATION LAW DIFFERENCES

	COBRA	WISCONSIN
Type Plan		
Self insured plans	yes	no
Insured plans	20 + employees	all
Church plans	no	yes
Federal government	no	no
State & local government (either insured or self-funded)	yes	yes
Who Covered		
Terminated employees & their dependents	18 mos.	18 mos.
Spouses		
death of employee	36 mos.	18 mos.
divorce from employee	36 mos.	18 mos.
separation from employee	36 mos.	no
annulment from employee	no	18 mos.
employee eligible for Medicare	36 mos.	18 mos.
Dependent		
reaches maximum age of anyone eligible for cont. other than termination of employment	36 mos.	no 18 mos. in some cases - none in others
Premium	102% max.	100% max.
Coverage May End		
Employer ceases to offer any plan to employees	yes	yes
Person fails to pay premium	yes	yes
Person covered under another group plan	yes	yes, if coverage is similar
Person becomes eligible for another group plan	no	yes, if coverage is similar
Person establishes residence outside state	no	yes
In divorce situation, employee no longer member of group and ex-spouse loses coverage	----	yes
Person becomes eligible for Medicare	yes	No, except policy can carve-out Medicare benefits

266r1

	COBRA	WISCONSIN
Notice Requirement	Within 30 days employer must notify eligible person of right to continue	Employer gives written notice within five days of being notified that person is eligible for continuation/conversion
	Employee or dependent required to notify plan administrator of eligibility to continue -no time limit	Terminated insured must send premium to employer within 30 days of receiving notice
	Within 14 days of being notified of person's eligibility, plan administrator must advise qualified beneficiary of rights	
	After receiving notice from plan administrator, person has 60 days to notify administrator of decision to continue coverage	
	Terminated employee has additional 45 days after notifying administrator of decision to pay the retro-active premium	

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APPENDIX E

WISCONSIN LAW ON THE STATE HEALTH INSURANCE PLAN

[s. 146.90, Stats.]

Section 146.90, Stats.

146.90 STATE HEALTH INSURANCE PROGRAM. (1) (a) The department, with the advice of the council on health care coverage for the uninsured, shall design a state health insurance program to provide health care coverage to uninsured persons and shall submit a plan detailing the structure, operation and management of the program to the joint committee on finance by January 1, 1987.

(b) The department shall conduct, directly or by contract, research and surveys that the department determines are necessary to obtain information to enable the department to design the program under par. (a).

(c) In designing the structure of the program under par. (a), the department shall consider inclusion of all of the following elements:

1. Providing the opportunity to enroll in the program to all medical assistance recipients.

2. Provisions designed to avoid adverse selection of enrollees.

3. Offering enrollees a choice of either catastrophic or comprehensive health care coverage under the program.

4. A payment system for the program based upon prepaid capitated payments.

5. Incorporating the use of insurance vouchers and direct payments to health care providers in the program.

6. Requiring contributions to the health care coverage costs by enrollees on an income-based progressive scale.

7. Requiring competitive bidding among prospective administrators of, or health care providers for, the program.

8. Provisions designed to avoid creating incentives for employers to cease offering health care coverage to their employes.

9. Provisions designed to obtain maximum federal funding for the program.

(d) In designing the operation and management of the program under par. (a), the department shall include policies and procedures concerning all of the following:

1. Informing uninsured persons of the eligibility requirements and health care coverage options available under the program.

2. Promoting the health care coverage options offered under the program.

3. Administering the program on a state and local basis.

4. Verifying eligibility and contribution requirements.

5. Selecting the agency of state government to be responsible for administering the program when the program is implemented on a statewide basis.

(e) 1. The department shall, in addition to designing the program under par. (a), design an alternative health care coverage program for uninsured persons for whom coverage under the program under par. (a) would not be feasible or would not be appropriate and shall submit a plan detailing the structure, operation and management of the program to the joint committee on finance by January 1, 1987.

2. The department shall conduct, directly or by contract, research and surveys that the department determines are necessary to obtain information to enable the department to design the program under subd. 1.

(2) (a) The department, with the advice of the council on health care coverage for the uninsured, shall design pilot projects to test the programs designed under sub. (1) and shall submit its recommendations for the pilot projects, including a suggested timetable, and evaluation methodology and projected costs, to the joint committee on finance by January 1, 1987.

(b) The recommendations under par. (a) shall include at least one pilot project to be conducted in each of the following areas:

1. A county without a city of the 1st, 2nd or 3rd class.

2. A city of the 2nd or 3rd class.

3. All or part of a city of the 1st class.

(c) The recommendations under par. (a) shall provide that in each county in which a pilot project is conducted the county board, or in a county with a county executive or county administrator the county executive or county administrator, shall appoint a local advisory committee to assist in the implementation of the pilot projects, provide information and advice regarding developing the pilot projects to address

local needs and evaluate the effectiveness of the pilot projects. The recommendations shall provide that the committee consist of at least the following members:

1. Three elected county or local officials.

2. Six local public members, each representing one of the following interests:

a. The business community.

b. Labor.

c. The insurance industry.

d. Consumers.

e. Hospitals.

f. Other health care providers.

(3) The joint committee on finance, after receipt of the plan under sub. (1) and the recommendations under sub. (2), shall hold hearings and, by July 1, 1987, determine whether to approve, approve with modifications or disapprove the pilot project recommendations for inclusion in the 1987-89 biennial budget. If the joint committee approves the pilot project recommendations, it shall direct the department to conduct the activities under sub. (4), in accordance with any modifications it has made.

(4) If so directed by the joint committee on finance, the department shall, by January 1, 1989, do all of the following:

(a) Conduct the approved pilot projects and submit a detailed evaluation of the pilot projects to the joint committee on finance.

(b) Submit to the joint committee a revised plan for a state health insurance program under sub. (1) (a) that is designed in accordance with sub. (1) (c) and (d) and a revised plan for an alternative health care coverage program under sub. (1) (e), each of which incorporates the results of the evaluation of the pilot projects under par. (a) and includes detailed cost estimates of implementing the programs on a statewide basis and operating them for a 10-year period beginning July 1, 1989.

(c) Submit specific recommendations to the joint committee regarding all of the following:

1. The advisability of implementing the programs on a statewide basis.

2. The most expedient method of implementing the programs on a statewide basis.

3. The most expedient method of generating the general program revenues necessary to achieve implementation on a statewide basis.

(d) Promulgate rules necessary for implementing the programs.

(5) The joint committee on finance shall decide, during the deliberations on the 1989-91 biennial budget, whether and in what manner the programs should be implemented on a statewide basis.